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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,354	12/21/2000	Don Middleton	NC25767	1696

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EXAMINER

EL HADY, NABIL M

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/746,354

Applicant(s)

MIDDLETON, DON

Examiner

Nabil M El-Hady

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. Claims 1-16 are pending in this application.
2. Claims 1, 11, and 14, are objected to because of the following informalities: apparent typing error "having" at line 1, should be "having". Appropriate correction is required
3. Claim 6 is objected to because of the following informalities: apparent typing error "." at line 4, a period "." should be used only to end of the claim. Appropriate correction is required.
4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. The following words or phrases in the claims are not clearly understood and render the corresponding claims indefinite:

a) "including a selected program within the storage capacity of the mobile device", claim 1, lines 7-8, claim 11, lines 6-8, and claim 14, lines 6-7; it is unclear if the selected program is part of the application or is it a program in the storage of the mobile device; or the application includes a selected program and the storage configuration is defined within the storage capacity of the mobile device (if this is the case, the way the claim is presented is unclear);

b) "receiving input", claim 1, line 10, and claim 11, line 9, it is unclear what kind of input , input data ?, is it different from the control parameters defined before in line 5, and how it is received, and from where;

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c) "wherein said selected program is stored in the network storage location", claim 1, lines 11-12, it is unclear if the selected program is part of the application as claimed before, and if the application is downloaded from the network storage location, then this limitation is repeated;

d)" based on said control parameters as defined by said input data", claim 1, lines 14-15, are the control parameters and input data the same;

e) "loading said selected program from the network", claim 1, lines 15-16, claim 11, lines 13-14; it is unclear if the selected program as part of the application is downloaded with the application or separate from the application, also if the application is downloaded from the network, then the selected program should be downloaded, NOT loaded, from the network (to be consistent with the claim language of claim 1).

f) "into at least the mobile device", claim 1, lines 16-17, it is unclear if the storage management and the loading is for the claimed mobile device or also for other devices;

g) "executing ... from the main memory of the mobile device", claim 1, lines 18-19, claim 11, lines 15-16; it is unclear if the loading (downloading) of the selected program is directly to the main memory of the mobile device;

h) "loading", claim 3, line 2, claim 4, line 3, claim 5, line 3, claim 6, line 5 twice, claim 7, line 2, claim 8, line 6 and reloading , line 7, claim 9, line 3, is it downloading (to be consistent with the claim language);

i) "determining that said selected program is not stored in the main memory of the mobile device", claim 4, lines 3-5; it is unclear how after determining that it is not, the selected program will be executed from the main memory of the mobile device (claim 1, lines 18-19);

j) "determining that said selected program is not stored in the secondary storage location of the mobile device", claim 5, lines 3-5; it is unclear how after determining that it is not, the

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selected program will be executed from the main memory of the mobile device (claim 1, lines 18-19);

k) "loading said selected program into the secondary storage location of the mobile device", claim 6, lines 5-6, it is unclear how after the loading of said selected program into the secondary storage location of the mobile device, the selected program will be executed for the main memory (claim 1, lines 18-19);

l) "a storage priority until main memory capacity is needed", it is unclear if and how the main memory usage is related to the storage priority;

m) "said input device further for receiving", claim 14, lines 8-9; it is unclear what is claimed;

n)"said application to be loaded into the mobile device, claim 14, lines 7-8; and "loading said selected program into the mobile device", claim 14, line 15; it is unclear if the selected program as part of the application is loaded into the mobile device with the application or separate from the application, otherwise the limitation is repeated in the same claim.

B. There is insufficient antecedent basis for:

a) "said input data", claim 1, line 14; claim 11, lines 12-13;

b) "said at least one control parameter", claim 10, lines 1-2;

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (US 6,553,468) in view of

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Smith (US 6,553,468).

10. As to claim 11, Smith discloses the invention as claimed including a method for managing applications in a mobile device having storage capacity including a secondary storage location and a main memory (col. 3, lines 32-34; and col. 7, lines 44-45), the method comprising the steps of defining control parameters, said control parameter defining at least a storage configuration for applications including a selected program within the storage capacity of the mobile device (col. 7, lines 21-24), said application to be loaded into the mobile device (col. 7, lines 24-32); receiving input for invoking said selected program in the mobile device (col. 7, lines 55-62); performing storage management of said selected program based on said control parameters (col. 7, lines 21-24) as defined by said input data (control parameters of the storage is defined by what operational features on a device have been mastered by a userwhat access the device has to a communication network, col. 7, lines 55-62, these are considered

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input data that define the control parameters), said storage management including loading said selected program into the mobile device; and executing said selected program from the main memory of said mobile device (col. 7, lines 21-32).

11. As to claim 1, the claim is rejected for the same reasons as claim 11 above. In addition, Smith discloses the mobile device operating in a communications network having a network storage location (col. 3, lines 24-27; and 404, 407, Fig. 4), wherein the selected program is stored in the network storage location; and said selected program is loaded from the network into the mobile device (col. 3, lines 11-17).

12. As to claim 14, the claim is rejected for the same reasons as claims 1 and 11 above. In addition, Smith discloses an apparatus for managing applications in a mobile device having storage capacity including a secondary storage location and a main memory (col. 3, lines 32-34; and col. 7, lines 44-45), the apparatus comprising an input device for defining control parameters (inherent in col. 7, lines 55-62 where control parameters of the storage is defined by what operational features on a device have been mastered by a userwhat access the device has to a communication network), said control parameters defining at least a storage configuration for applications including a selected program within the storage capacity of the mobile device (col. 7, lines 33-62), said application to be loaded into the mobile device (col. 7, lines 21-32); said input device receiving input for invoking said selected program in the mobile device (col. 7, lines 55-62); and a processor coupled to said input device for performing storage management of said selected program based on said control parameters as defined by said input data (inherent in the disclosure of Smith a processor to work with the on-board control 402 of Fig. 4 to manage the storage of the mobile device), said storage management including

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loading said selected program into the mobile device, and executing said selected program from the main memory of said mobile device (col. 7, lines 21-32).

13. As to claims 2, 12, and 15, Smith discloses receiving input data at the mobile device, said input data defining said control parameters (input data that define the control parameters are characterized by operational features on a device that have been mastered by a userwhat access the device has to a communication network, col. 7, lines 55-62).

14. As to claims 3, 13, and 16, Smith discloses loading a launcher program from the communications network into the mobile device (col. 3, lines 15-16, 34-40).

15. As to claims 4, and 5, Smith discloses determining that said selected program is not stored in the main memory of the mobile device, or not stored in the secondary storage location of the mobile device (col. 3, lines 18-27).

16. As to claim 6, Smith discloses determining that said control parameters (as related to user activity and mastering of the operation of the device) indicate that said selected program is to be stored in the secondary storage location of the mobile device and loading said selected program into the secondary storage location of the mobile device (col. 3, lines 11-17)

17. As to claim 7, Smith discloses loading said selected program from the secondary storage location into the main memory of the mobile device (inherent in Fig. 2, changing storage requirement as in Fig. 2, requires moving data from the secondary storage to the main memory for execution).

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18. As to claims 8 and 9, Smith determines that the selected program has been corrupted before reloading it again (program is overwritten or corrupted when the device is considered recycled, which necessitates reloading of basic instructions, col. 2, lines 41-57; and col. 7, lines 40-54).

19. As to claim 10, Smith discloses the control parameters comprises a storage priority for said selected program and storing said selected program in the main memory of the mobile device until main memory capacity is needed (storage priority is inherent in defining parameter related to input data as defined by user activity and mastering of the operation of the device; see col. 2, lines 26-40).

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dornier et al. (US 5,579,489) discloses PDA's that allows user to download applications (col. 2, lines 40-47) and input means connected to the PDA processor to provide commands and data to manage the PDA (col. 2, line 61 to col. 3, line 33).

Smethers (US 6,560,640) discloses wireless client device including input device, processor, memory, input generated control parameters to manage the downloading and execution of applications form a communication network (col. 4, lines 1-5; col. 5, lines 32-39; col. 7, lines 36-38; col. 9, lines 40-55; col. 10, lines 6-41);

Schwartz et al. (US 6,473,609); and Postman et al. (US 6,041,374).

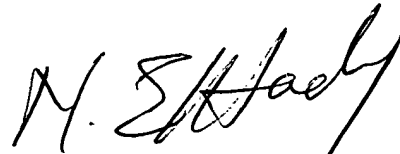
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21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nabil M El-Hady whose telephone number is (703) 308-7990. The examiner can normally be reached on 9:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (703) 305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

July 20, 2004

A handwritten signature in black ink, appearing to read 'N. El-Hady', with a stylized flourish at the end.

Nabil El-Hady, Ph.D, M.B.A.
Primary Patent Examiner
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